

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

(Filed: December 4, 2008)

No. 06-331V

_____	)	
REBECCA DUPLESSIS,	)	
	)	
	)	
Petitioner,	)	
	)	UNPUBLISHED
v.	)	Attorney's fees and costs
	)	
SECRETARY OF THE DEPARTMENT	)	
OF HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
_____	)	

Neal J. Fialkow, Pasadena, CA, for petitioner.

Glenn A. MacLeod, Department of Justice, Washington, DC, for respondent.

### **REVISED ATTORNEYS' FEES AND COSTS DECISION**<sup>1</sup>

On April 27, 2006,<sup>2</sup> petitioner, Rebecca Duplessis, filed a petition seeking compensation under the National Vaccine Injury Compensation Program (the "Vaccine

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<sup>1</sup> Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document's public disclosure.

<sup>2</sup> The original petition, petitioner's declaration, petitioner's counsel's declaration and petitioner's exhibits 1-5 were all first filed with the court on April 27, 2006. On December 12, 2006, petitioner's counsel re-filed these exhibits because they were not filed with consecutive page numbers in the first instance.

Program” or the “Act”).<sup>3</sup> On February 1, 2008, the undersigned issued a Decision finding that petitioner’s filed medical records do not support a finding of entitlement.

On October 3, 2008, petitioner’s counsel filed petitioner’s Petition for Attorney Fees, Costs: Declaration of Neal J. Fialkow: and Memorandum of Points and Authorities (“fee application”), requesting a total of \$25,536.19 in attorney’s fees and costs. On October 24, 2008, the undersigned issued an order requesting that petitioner’s counsel address the undersigned’s concern about the reasonableness of certain of the requested fees in the submitted fee application. On October 31, 2008, the parties filed a Stipulation of Fact for Attorney’s Fees and Costs (“Stipulation”). In the stipulation, the petitioner agreed to accept \$21,886.19 in attorney’s fees and costs. See Stipulation.

On November 5, 2008, the undersigned issued a decision in the above-captioned case, awarding petitioner \$21,886.19 in attorney’s fees and costs. On November 21, 2008, the undersigned convened a status conference at the request of petitioner’s attorney. Petitioner’s attorney requested minor changes to the decision. Pursuant to the November 21, 2008 status conference, the undersigned struck from the record the November 5, 2008 decision. The undersigned ordered the parties to file an amended stipulation reflecting the changes requested by petitioner. On November 26, 2008, the parties filed the Revised Stipulation of Fact for Attorney’s Fees and Costs. In the stipulation, the petitioner agreed to accept a total of \$21,945.19 in attorney’s fees and costs and petitioner costs. This amount represents \$21,886.19 in attorney’s fees and costs and \$59.00 in petitioner’s personal costs.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of the requested fees and the agreement of the parties, the undersigned **GRANTS** petitioner’s costs and petitioner’s attorneys’ fees and costs as outlined in the parties’ revised stipulation.

The undersigned awards petitioner \$21,945.19 in fees and costs.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner’s favor in the amount of \$21,945.19 in attorneys’ fees and attorneys’ costs.<sup>4</sup> The judgment shall reflect

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<sup>3</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

that Neal J. Fialkow shall collect \$21,886.19 from petitioner.

**IT IS SO ORDERED.**

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Patricia E. Campbell-Smith  
Special Master